



INSOLVENCY PROFESSIONAL AGENCY
OF INSTITUTE OF COST ACCOUNTANTS OF INDIA
PROMOTED BY THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

21 | July | 2026

IBC AU-COURANT

LATEST UPDATES ON INSOLVENCY AND BANKRUPTCY

"When values are clear, decisions are easy"

➤ **One Partner's Signature Is Sufficient For Firm's Insolvency Plea If Majority of Partners Approve: NCLAT**

The National Company Law Appellate Tribunal (NCLAT) has recently clarified that where a majority of partners has decided to initiate insolvency proceedings, the petition need not be signed by all of them, as one partner may act on behalf of the firm under the Partnership Act. The tribunal, however, dismissed the appeal before it after holding that the insolvency application was barred by limitation.

A bench of Judicial Member Justice N. Seshasayee and Technical Member Arun Baroka made the clarification while upholding the Mumbai bench of the National Company Law Tribunal's (NCLT) order rejecting an insolvency application filed by Shree Dhanvantari Pharmaceuticals against Konkan Ayur Pharma Pvt. Ltd.

"Now, of the two partners who constitute the majority one has signed the petition, but as rightly contended by the appellant, under Sec.18 of the Partnership Act, every partner is an agent of the other partner and under Sec.22 of the Act, if an act of a partner should bind the firm, then such act should have been done in the name of the firm. Therefore, the authority of Nandkishore Jaynarayan Jethale to institute the petition under Sec.7 cannot be questioned, since he has done the act in the firm's name. The next aspect is whether both the partners who constitute the majority should sign the petition. Here, Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, read with Form 1, is silent. When the procedural law is silent on it, then one necessarily has to fall back on the substantive law, the Partnership Act, and it enables one partner to act for all.", the tribunal clarified.

Shree Dhanvantari Pharmaceuticals, a partnership firm engaged in the manufacture and trading of Ayurvedic medicines, claimed that it had advanced loans of about ₹2.26 crore to Konkan Ayur Pharma. Alleging default in repayment, it initiated insolvency proceedings before the NCLT after issuing a demand notice in May 2022. During the proceedings, one surviving partner of the firm and the son of a deceased partner sought to intervene. They questioned the authority of the partners who had instituted the insolvency application.

Source: Live Law Biz

Read Full News: [One Partner's Signature Is Sufficient for Firm's Insolvency Plea If Majority of Partners Approve: NCLAT](#)

➤ **Withdrawal of Earlier Insolvency Plea by Personal Guarantor After OTS Not a Bar to Fresh Plea: NCLT Chennai**

The National Company Law Tribunal (NCLT) at Chennai has held that a personal guarantor's withdrawal of an earlier insolvency application after securing a One Time Settlement (OTS) for one loan account does not, by itself, bar the filing of a fresh insolvency application in respect of continuing liabilities.

A coram of Judicial Member Jyoti Kumar Tripathi and Technical Member Ravichandran Ramasamy was considering a petition filed by D. Manuel Anand, a personal guarantor to Servo Craft HR Solutions Private Limited, under Section 94(1) of the IBC seeking initiation of the insolvency resolution process against himself.

Source: *Live Law Biz*

Read Full News: [Withdrawal of Earlier Insolvency Plea by Personal Guarantor After OTS Not a Bar to Fresh Plea: NCLT Chennai](#)

➤ **Gratuity, Leave Encashment Not Part of CIRP Cost: NCLAT**

The NCLAT has dismissed an appeal by a former employee of Duncans Industries seeking priority payment of his gratuity and leave encashment dues by classifying them as insolvency resolution process costs.

A three-member bench upheld the earlier order passed by the Kolkata Bench of the National Company Law Tribunal (NCLT), which in September 2024 dismissed the plea of a former director of the previous management of Duncans Industries. The appellate tribunal said such dues must instead be settled as per the company's approved resolution plan.

Source: *The Economic Times*

Read Full News: [Gratuity, leave encashment not part of CIRP cost: NCLAT - The Economic Times](#)



**INSOLVENCY PROFESSIONAL AGENCY
OF INSTITUTE OF COST ACCOUNTANTS OF INDIA**
PROMOTED BY THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

INSOLVENCY PROFESSIONAL AGENCY OF INSTITUTE OF COST ACCOUNTANTS OF INDIA
(A Section 8 Company registered under Companies Act, 2013)
Delhi Office: CMA Bhawan, 3 Institutional Area, Lodhi Road, New Delhi - 110003
Noida Office: CMA Bhawan, C-42 Sector 62 Noida, Uttar Pradesh - 201309